IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

WP(C).No. 24969 of 2005(V)

PETITIONER:

RAMESH, M/S.RAM INDUSTRIES,
PALACE EAST GATE, IRIMPANAM, TRIPUNITHURA.

BY ADV. SRI.A.K.SRINIVASAN
SRI.N.S.MOHAMMED USMAN
SRI.A.S.BENOY

RESPONDENTS:

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1. GOPAKUMAR, S/O.KARUNAKARAN, AGED 53 YEARS, M/S.MIRACLE, VAIDYASALA VEEDU, KILIKOLLOOR, KOLLAM 4, NOW RESIDING AT K.T.KUNJUMON HOUSE,AZAD ROAD, KOCHI.

2. STATE OF KERALA, REPREENTED BY GOVERNMENT PLEADER, HIGH COURT OF KERALA.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 22/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

EXT.P1 TRUE COPY OF THE PLAINT IN O.S.31/2005 ON THE FILE OF THE PRINCIPAL MUNSIFF'S COURT, ERNAKULAM.

EXT.P2 TRUE COPY OF THE SUMMONS ISSUED TO THE DEFENDANT IN O.S.31/2005 ON THE FILE OF PRINCIPAL MUNSIFF'S COURT, ERNAKULAM.

EXT.P3 TRUE COPY OF THE WRITTEN STATEMENT FILED IN O.S. NO.31/2005 ON THE FILE OF THE PRINCIPAL MUNSIFF'S COURT, ERNAKULAM.

EXT.P4 TRUE COPY OF I.A.NO.5193/2005 IN O.S.NO.31/2005 ON THE FILE OF THE PRINCIPAL MUNSIFF'S COURT, ERNAKULAM.

EXT.P5 TRUE COPY OF ORDER DTD.19.7.2005 PASSED IN I.A.5193/2005 IN O.S.31/2005 OF PRINCIPAL MUNSIFF'S COURT, ERNAKULAM.

EXT.P6 TRUE COPY OF THE ORDER DTD.21.5.2005 REJECTING THE WRITTEN STATEMENT.

TRUE COPY

P.A.TO JUDGE

css/

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 24969 of 2005

Dated this the 22nd day of June 2007

JUDGMENT

Service is not complete. There is no representation for the petitioner either.

Having gone through the impugned order and having considered the averments in the writ petition, I am of the view that there is justification for allowing this writ petition. Under the impugned order the court below has refused to accept the written statement filed by the petitioner on the reason that the same was not filed within 90 days of receiving the summons.

2. Having regard to the submissions and the decision reported in **Kailash v .Nanhku (2005 (2) KLT 623 (SC)**, the court below ought to be directed to receive the written statement Ext.P3. Accordingly, quashing Exts.P5 and P6 I direct the court below to receive Ext.P3 written statement and frame issues on the basis of the contentions raised therein and dispose of the suit

in accordance with law.

The writ petition is allowed as above.

PIUS C. KURIAKOSE,
JUDGE.